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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO	
10/054,616	01/22/2002	Larry S. Barak	186552/US/2	7096	
32940	7590 09/01/2005		EXAMINER		
DORSEY & WHITNEY LLP			PAK, MICHAEL D		
555 CALIFOR SUITE 1000	RNIA STREET, SUITE	1000	ART UNIT	ART UNIT PAPER NUMBER	
SAN FRANCISCO, CA 94104			1646		

DATE MAILED: 09/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary 10/054,616 BARAK ET AL.			Application No.	Applicant(s)					
Examiner Michael Pak - The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE of THIS COMMUNICATION. Extraorder of time may be available under the provisions of 37 CPR 1.136(n). In no event, however, may a reply be threely filled If the period for may be available under the provisions of 37 CPR 1.136(n). In no event, however, may a reply be threely filled If the period for may be available under the provisions of 37 CPR 1.136(n). In no event, however, may a reply be threely filled If the period for may be available under the provisions of 37 CPR 1.136(n). In no event, however, may a reply be threely filled If the period for may be available under the mainting date of the communication this (100 kg) and val explicit Sk (th) MCP/THS from the mainting date of this communication to the provision by the filled stem than there monition after the mainting date of this communication. Any reply received by the Difficial tent than there monition after the mainting date of this communication. Any reply received by the State than there monition after the mainting date of this communication. State of the communication and patient term adjustment. See 37 CFR 1.704(n). Setsus 1 SC Responsive to communication(s) filled on 26 May 2005. 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final. 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) ☐ Claim(s) 18-22.48-50 and 56 is/are pending in the application. 4a) Of the above claim(s) 48 is/are withdrawn from consideration. 5b) ☐ Claim(s) 19-22 is/are allowed. 5c) ☐ Claim(s) 19-22 is/are allowed. 6c) ☐ Claim(s) 19-22 is/are allowed. 7c) ☐ Claim(s) 19-22 is/are allowed. 7d) ☐ The specification is objected to by the Examiner. 10) ☐	Office Action Summary								
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DETAILED ACTION

- 1. Amendment filed May 26, 2005 has been entered.
- 2. Applicant's election without traverse of Group II in the reply filed on May 26, 2005 is acknowledged.

Applicant request that claim 48 be considered as a linking claim. However, claim 48 although it is dependent on claim 19 is not a true linking claim since the novelty of the claim does not reside in the nucleic acid. Furthermore, claim 48 is not in condition for allowance because it is not in the scope of claim 19.

Claim 48 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Group, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on May 26, 2005.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 49 is rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a host cell, does not reasonably provide

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enablement for an isolated host cell. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make or use the invention commensurate in scope with these claims..

Claim sencompass generically host cell of animal or transgenic organism in situ. However, the specification does not teach how to use the host cell in an animal or transgenic organism in situ. It would require undue experimentation to empirically determine the phenotype of the nucleic acid in an transgenic organism. It is suggested that the term "isolated host cell" be used.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 18 and 49 are rejected under 35 U.S.C. 102(a) as being anticipated by Alewijnse et al. (Molecular Pharamcology, 2000).

Alewijnse et al. disclose a histamine receptor with the arginine of the DRY motif altered. Alewijnse et al. disclose the constitutive activity due to the mutation. Claim 49 claim limitation to a "fragment" does not require the complete sequence of SEQ ID NO: of dependent claim 19.

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Claims 19-21 are allowed. Claims 56-60 are objected to as being dependent

upon a rejected base claim, but would be allowable if rewritten in independent form

including all of the limitations of the base claim and any intervening claims.

4. Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Michael Pak whose telephone number is 571-272-0879.

The examiner can normally be reached on 8:00 - 2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Anthony Caputa can be reached on 571-272-0829. The fax phone numbers

for the organization where this application or proceeding is assigned are (703) 872-9306

for regular communications and (703) 872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or

proceeding should be directed to the receptionist whose telephone number is 571-272-

1600.

Michael Pak

Primary Examiner

Hickord D. PAR

Art Unit 1646

August 22, 2005